

## CHAPTER NO. 490

### SENATE BILL NO. 985

By Bryson, Cohen, Norris, Miller, Kilby, Black, Tracy

Substituted for: House Bill No. 99

By Harry Brooks, Eldridge, Campfield, Phillip Johnson, Hill, West, Kelsey, Casada, Overbey, McMillan, Marrero, Cooper, Towns, Litz, Moore, McDonald, Hargrove, McCormick, Montgomery, Strader, Cobb, Crider, Dunn, Favors, Sontany, Gresham, Hensley, Sharp, Niceley, Watson, Hargett, Baird, Hawk, Fitzhugh, DuBois

AN ACT to amend Tennessee Code Annotated, Title 33; Title 49; Title 67; Title 68 and Title 71, relative to encouraging the employment of disabled persons. This act makes appropriations for the encouragement of the employment of disabled persons for an indefinite period.

WHEREAS, lack of employment opportunities discourages and restricts persons with disabilities, inhibits their interactions with their communities, prevents them from achieving self-worth and economic self-sufficiency to the extent of their abilities, and prolongs dependence on government assistance; and

WHEREAS, incentives to hire persons with disabilities and to furnish benefits such as health insurance for such persons can be provided through franchise tax and excise tax credits to encourage and enable employers to hire, work with, train, and mentor such persons in their workforces; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2109, is amended by adding the following language as a new subsection (g) thereto:

(g) (1) As used in this subsection, unless the context otherwise requires:

(A) "Full-time employee job" means a permanent, rather than seasonal or part-time, employment position providing employment for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37 ½) hours per week if that person is enrolled in minimal health care benefits as described in title 56, chapter 7, part 22; and

(B) "Part-time employee job" means a part-time employment position providing employment for at least twelve (12) consecutive months to a person for at least ten (10) hours per week.

(2) A job tax credit of five thousand dollars (\$5,000) for each net new full-time employee job and two thousand dollars (\$2,000) for each net new part-time employee job for a person with disabilities who is receiving state services directly related to such disabilities shall be allowed against a taxpayer's franchise and excise liability tax for that year; provided that:

(A) The employment of such individual creates a net increase in the number of persons with disabilities employed by the taxpayer within the ninety (90) day period immediately preceding the employment;

(B) The taxpayer provides such employment for at least twelve (12) consecutive months and for no less than the minimal hours per week and for employees enrolled in the minimal health care benefits described in subdivisions (g)(1)(A) and (g)(1)(B) above, for respective full-time employment jobs and part-time employment jobs;

(C) The credit allowed by this subdivision for the employment of persons with disabilities shall first apply in the tax year in which the taxpayer increases net new employment of such persons by one (1) or more and in those subsequent fiscal years in which further net increases occur above the level of such employment established when the credit was last taken;

(D) The taxpayer is not required to make a capital investment in a qualified business enterprise in order to receive the credit allowed by this subsection for the employment of persons with disabilities; and

(E) The credit provided by this subsection may be granted only to taxpayers who participate in an existing employment incentive program pursuant to which persons with disabilities are being served by the Department of Health, the Department of Mental

Health and Developmental Disabilities, the Division of Rehabilitation Services of the Department of Human Services, the Department of Finance and Administration, the Division of Mental Retardation Services of the Department of Finance and Administration, the Tennessee Committee for the Employment of Persons with Disabilities, or any other similar state employment incentive program. The Commissioner of Finance and Administration shall certify to the Commissioner of Revenue a taxpayer's participation in one of these programs, that program's fiscal capacity to serve the taxpayer or the taxpayer's employees, and the number of persons employed by the taxpayer meeting the criteria established by this subsection.

(3) The taxpayer shall file a plan with the Commissioner of Revenue on a form prescribed by the commissioner in order to qualify for the credit. The form shall be filed on or before the last day of the fiscal year in which the employment begins and shall state the number of persons with disabilities newly employed.

(4) The Commissioner of Revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of credit allowed by this subsection and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the job tax credit.


(5) The provision of subdivisions (2)(F) and (2)(G) of subsection (c), relating to the carryforward of any unused job tax credit, shall apply to the credit allowed by this subsection.

SECTION 2. The Commissioner of Finance and Administration shall identify those grant funds that are generated by Tennessee Code Annotated, Section 33-1-301, or any similar grant funds that may be appropriately applied to the subject matter of this act, and shall ensure that those grant funds are used to offset the cost of the job tax credit created in section 1 of this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and apply to tax periods ending on or after July 1, 2006.

**PASSED: May 28, 2005**

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 22<sup>nd</sup> day of June 2005**

  
PHIL BREDESEN, GOVERNOR